

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application Serial No. .... 09/721,402  
Confirmation No. .... 2724  
Filing Date ..... November 22, 2000  
Applicant..... Evans et al.  
Group Art Unit..... 2621  
Examiner ..... Vincent F. Boccio  
Attorney's Docket No. .... MS1-0688US  
Title: IMPROVED DVD NAVIGATOR AND APPLICATION PROGRAMMING INTERFACES (APIS)

**SUPPLEMENTAL DECLARATION UNDER 37 C.F.R. § 1.131**

As a below named inventor, I hereby declare that:

1. I am a co-inventor of the subject matter recited in claims 1-12 pending in the above-captioned application, and have assigned my rights in the instant patent application to Microsoft Corporation (Applicant).
2. At least as early as November 24, 1999, we conceived of the invention described and claimed in the subject application. Also, at least as early as November 24, 1999, we submitted an Invention Disclosure document describing this concept to Applicant. A redacted copy of the Invention Disclosure document, dated prior to November 24, 1999, is attached as Exhibit A.
3. The features claimed in the instant patent application were included in the Beta 2 release of Windows® Millennium operating system (the Beta 2 release was a limited release under a non-disclosure agreement), as disclosed on page 1 of the Invention Disclosure document.
4. The Beta 2 release of Windows® Millennium operating system occurred at least as early as November 24, 1999. A publication entitled "Frequently Asked Questions –

Windows Millennium Edition,” available on the ACTIVENETWORK website at [www.activewin.com/faq/millennium.shtml](http://www.activewin.com/faq/millennium.shtml), indicates that Windows® Millennium Beta 2 edition was released on November 23, 1999 (see Timeline at end of publication). A copy of this publication is attached as Exhibit B.

5. A publication entitled “Introducing Windows Millennium Edition (‘Windows Me’) Beta 3,” available on Paul Thurrott’s SuperSite for Windows at [www.winsupersite.com/reviews/millennium\\_b3\\_intro.asp](http://www.winsupersite.com/reviews/millennium_b3_intro.asp), indicates that “On November 24, 1999, Microsoft released Windows Millennium Beta 2 ...” (see paragraph 6). Paul Thurrott was one of the test users (“beta testers”) of the Beta 2 release of Windows® Millennium operating system. A copy of this publication is attached as Exhibit C.
6. It is standard practice to test software beta releases to be sure that they function properly before distribution of the beta software to beta testers. It is also standard practice that the tested beta version of software is only released to beta testers if it functions properly.
7. Prior to distribution to of the Beta 2 release of Windows® Millennium operating system to beta testers (and, therefore, prior to November 24, 1999), the Beta 2 release was tested by Theodore (“Ted”) Youmans, a Test Lead (formerly Software Test Engineer) at Microsoft Corporation, using a proprietary test program, which includes an event viewer that shows when events are properly sent and received by the software being tested.
8. The test results showed that the DVD navigator or the Beta 2 release of Windows® Millennium operating system functioned properly, and properly exercised

application programming interfaces (APIs) embodying the features claimed in the instant application. See numbered paragraphs 3 and 4 of the Declaration of Theodore Youmans filed concurrently herewith.

9. I have been unable, using reasonable diligence, to locate a copy of the original test results from the testing of the Beta 2 release of Windows® Millennium operating system prior to its distribution to beta testers.
10. However, Ted Youmans was able to locate an archived copy of the binary code of the DVD navigator that was incorporated into the Beta 2 release of the Windows® Millennium operating system (“the Beta 2 binary”). A screen shot showing the build date of the archived Beta 2 binary is attached as Exhibit D.
11. On June 22, 2006, Ted Youmans reproduced the original test results of the DVD navigator of the Beta 2 release of Windows® Millennium operating system using the Beta 2 binary. Specifically, Ted tested the Beta 2 binary using a current version of the proprietary test program mentioned above. Details of the Beta 2 binary and the June 22, 2006 testing are described in an email attached as Exhibit E, and are set forth in numbered paragraphs 7-13 of the Declaration of Theodore Youmans filed concurrently herewith.
12. Based on the test results reproduced on June 22, 2006, the Beta 2 binary properly performed the features presently recited in the claims of the above-captioned application.
13. Since the Beta 2 binary is the same DVD navigator that was shipped with the Beta 2 release of Windows® Millennium operating system, the DVD navigator in the Beta 2 release of Windows® Millennium operating system also must have properly

performed the features presently recited in the claims of the above-captioned application, as of the release date of the Beta 2 release of Windows® Millennium operating system.

14. I have also been unable, using reasonable diligence, to locate any comments or reports from the beta testers discussing the performance of the DVD navigator of the Beta 2 release of Windows® Millennium operating system.
15. However, according to an article written by one of the beta testers, “[t]he best thing about Millennium, of course, is that *it just works*. Even in this early beta form, it looks like a winner for consumers. I’ll need to spend more time with Beta 2 in the coming weeks to be sure, but I’m looking forward to the final release, now expected in mid to late 2000.” “Windows ‘Millennium’ Beta 2 Reviewed,” available on Paul Thurrott’s SuperSite for Windows at [www.winsupersite.com/reviews/millennium\\_b2.asp](http://www.winsupersite.com/reviews/millennium_b2.asp). A copy of this publication is attached as Exhibit F.

The dates and other proprietary information listed on the Invention Disclosure document have been redacted, as permitted by MPEP § 715.07(II). However, as set forth in numbered paragraphs 1-15 above, each of the features of the pending claims was conceived of and reduced to practice at least by the Beta 2 release of Windows® Millennium operating system, which occurred at least as early as November 24, 1999.

All statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true. Further, these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or

imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of the application or any patent issued therefrom.

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